

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2389 – SB 2251

March 4, 2012

SUMMARY OF AMENDMENT (013779): Deletes all language after the enacting clause. Specifies domestic assault is punishable the same as assault defined in Tenn. Code Ann. § 39-13-101 for the first conviction. Imposes a mandatory minimum 30-day sentence for a second conviction of domestic assault committed in a manner resulting in bodily injury to the victim, and a fine of not less than \$350 nor more than \$3,500. Imposes a mandatory minimum 90-day sentence for a third or subsequent conviction of domestic assault committed in a manner resulting in bodily injury to the victim, and a fine of not less than \$1,100 nor more than \$5,000. A domestic assault offense involving bodily injury to the victim will not be subject to the enhanced penalties if 10 years or more have elapsed between the current violation and the immediately preceding violation.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – Not Significant
Increase State Expenditures – Not Significant

Increase Local Revenue – Not Significant
Increase Local Expenditures - \$8,121,200*

Funding for this bill in the amount of \$780,000 is included in the Governor's proposed FY12-12 budget.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

**Increase State Revenue – Not Significant
Increase State Expenditures – Not Significant**

**Increase Local Revenue – Not Significant
Increase Local Expenditures - \$5,819,400***

Funding for this bill in the amount of \$780,000 is included in the Governor's proposed FY12-13 budget.

Assumptions applied to amendment:

- Under current law, domestic assault is punished as a Class A misdemeanor. If the assault intentionally or knowingly causes physical contact with another that a reasonable person would regard as extremely offensive or provocative, the offense is punished as a Class B misdemeanor.
- According to the Administrative Office of the Courts, there has been an average of 646 convictions of domestic assault in each of the past five years. State court convictions are 10 percent of the total convictions. Total convictions, including general sessions courts, are estimated to be 6,460 per year.
- According to the District Attorneys General Conference (DAGC), the Conference sent a survey to each district attorney general. Based on responses by Shelby, Madison, Davidson, and Bradley counties, as well as the 12th Judicial District, it is assumed 61 percent (3,941) of the total Class A or Class B misdemeanors will be first-time offenders. Twenty-five percent (1,615) of the total will be second-time offenders and will serve a mandatory 30-day sentence. There are no data available on actual incarceration costs for local jails. According to the Department of Correction, the average county reimbursement for housing state felons for FY11-12 is \$44.83. Estimate assumes the statewide county cost for county jails is \$44.83 per offender per day. The total additional operating cost to local government for 1,615 offenders serving a mandatory 30-day sentence is \$2,172,013.50 (\$44.83 x 1,615 offenders x 30 days).
- The remaining 904 (6,460 - 3,941 - 1,615) will be third-time or subsequent violations and will serve a mandatory 90-day sentence. The total additional operating cost for county jails is \$3,647,368.80 (\$44.83 x 904 offenders x 90 days).
- Total additional operating cost for county jails is \$5,819,382.30 (\$2,172,013.50 + \$3,647,368.80).
- Providing that a prior conviction will not trigger the enhanced penalties if 10 years or more have elapsed will not have a significant impact on the number of violations pursuant to this bill.
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines is negligible. There will not be a significant increase in state or local revenue as a result.
- According to the DAGC, any increase in the caseloads of the DAGC can be accommodated within existing resources without an increased appropriation or reduced reversion.

**Article II, Section 24 of the Tennessee Constitution provides that: No law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with a large, stylized "D" and a long, sweeping underline.

Lucian D. Geise, Executive Director

/lsc